

1 AMENDMENT TO HOUSE BILL 789

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 789 on page 1, by  
3 replacing line 5 with the following:

4 "changing Sections 2-1402, 12-901, 12-904, 12-906, 12-909,  
5 12-910, 12-911, and 12-912 as follows:

6 (735 ILCS 5/2-1402) (from Ch. 110, par. 2-1402)  
7 Sec. 2-1402. Supplementary proceedings.

8 (a) A judgment creditor, or his or her successor in  
9 interest when that interest is made to appear of record, is  
10 entitled to prosecute supplementary proceedings for the  
11 purposes of examining the judgment debtor or any other person  
12 to discover assets or income of the debtor not exempt from  
13 the enforcement of the judgment, a deduction order or  
14 garnishment, and of compelling the application of non-exempt  
15 assets or income discovered toward the payment of the amount  
16 due under the judgment. A supplementary proceeding shall be  
17 commenced by the service of a citation issued by the clerk.  
18 The procedure for conducting supplementary proceedings shall  
19 be prescribed by rules. It is not a prerequisite to the  
20 commencement of a supplementary proceeding that a certified  
21 copy of the judgment has been returned wholly or partly  
22 unsatisfied. All citations issued by the clerk shall have the  
23 following language, or language substantially similar

1 thereto, stated prominently on the front, in capital letters:  
 2 "YOUR FAILURE TO APPEAR IN COURT AS HEREIN DIRECTED MAY CAUSE  
 3 YOU TO BE ARRESTED AND BROUGHT BEFORE THE COURT TO ANSWER TO  
 4 A CHARGE OF CONTEMPT OF COURT, WHICH MAY BE PUNISHABLE BY  
 5 IMPRISONMENT IN THE COUNTY JAIL." The court shall not grant a  
 6 continuance of the supplementary proceeding except upon good  
 7 cause shown.

8 (b) Any citation served upon a judgment debtor or any  
 9 other person shall include a certification by the attorney  
 10 for the judgment creditor or the judgment creditor setting  
 11 forth the amount of the judgment, the date of the judgment,  
 12 or its revival date, the balance due thereon, the name of the  
 13 court, and the number of the case, and a copy of the citation  
 14 notice required by this subsection. Whenever a citation is  
 15 served upon a person or party other than the judgment debtor,  
 16 the officer or person serving the citation shall send to the  
 17 judgment debtor, within three business days of the service  
 18 upon the cited party, a copy of the citation and the citation  
 19 notice, which may be sent by regular first-class mail to the  
 20 judgment debtor's last known address. In no event shall a  
 21 citation hearing be held sooner than five business days after  
 22 the mailing of the citation and citation notice to the  
 23 judgment debtor, except by agreement of the parties. The  
 24 citation notice need not be mailed to a corporation,  
 25 partnership, or association. The citation notice shall be in  
 26 substantially the following form:

27 "CITATION NOTICE

28 (Name and address of Court)

29 Name of Case: (Name of Judgment Creditor),

30 Judgment Creditor v.

31 (Name of Judgment Debtor),

32 Judgment Debtor.

33 Address of Judgment Debtor: (Insert last known

34 address)

1 Name and address of Attorney for Judgment  
2 Creditor or of Judgment Creditor (If no  
3 attorney is listed): (Insert name and address)  
4 Amount of Judgment: \$ (Insert amount)  
5 Name of Person Receiving Citation: (Insert name)  
6 Court Date and Time: (Insert return date and time  
7 specified in citation)

8 NOTICE: The court has issued a citation against the  
9 person named above. The citation directs that person to  
10 appear in court to be examined for the purpose of allowing  
11 the judgment creditor to discover income and assets belonging  
12 to the judgment debtor or in which the judgment debtor has an  
13 interest. The citation was issued on the basis of a judgment  
14 against the judgment debtor in favor of the judgment creditor  
15 in the amount stated above. On or after the court date  
16 stated above, the court may compel the application of any  
17 discovered income or assets toward payment on the judgment.

18 The amount of income or assets that may be applied toward  
19 the judgment is limited by federal and Illinois law. The  
20 JUDGMENT DEBTOR HAS THE RIGHT TO ASSERT STATUTORY EXEMPTIONS  
21 AGAINST CERTAIN INCOME OR ASSETS OF THE JUDGMENT DEBTOR WHICH  
22 MAY NOT BE USED TO SATISFY THE JUDGMENT IN THE AMOUNT STATED  
23 ABOVE:

24 (1) Under Illinois or federal law, the exemptions  
25 of personal property owned by the debtor include the  
26 debtor's equity interest, not to exceed \$2,000 in value,  
27 in any personal property as chosen by the debtor; Social  
28 Security and SSI benefits; public assistance benefits;  
29 unemployment compensation benefits; worker's compensation  
30 benefits; veteran's benefits; circuit breaker property  
31 tax relief benefits; the debtor's equity interest, not to  
32 exceed \$1,200 in value, in any one motor vehicle, and the  
33 debtor's equity interest, not to exceed \$750 in value, in  
34 any implements, professional books, or tools of the trade

1 of the debtor.

2 (2) Under Illinois law, every person is entitled to  
3 an estate in homestead, when it is owned and occupied as  
4 a residence, to the extent in value of \$30,000 ~~\$7,500~~,  
5 which homestead is exempt from judgment.

6 (3) Under Illinois law, the amount of wages that  
7 may be applied toward a judgment is limited to the lesser  
8 of (i) 15% of gross weekly wages or (ii) the amount by  
9 which disposable earnings for a week exceed the total of  
10 45 times the federal minimum hourly wage.

11 (4) Under federal law, the amount of wages that may  
12 be applied toward a judgment is limited to the lesser of  
13 (i) 25% of disposable earnings for a week or (ii) the  
14 amount by which disposable earnings for a week exceed 30  
15 times the federal minimum hourly wage.

16 (5) Pension and retirement benefits and refunds may  
17 be claimed as exempt under Illinois law.

18 The judgment debtor may have other possible exemptions  
19 under the law.

20 THE JUDGMENT DEBTOR HAS THE RIGHT AT THE CITATION HEARING  
21 TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. The  
22 judgment debtor also has the right to seek a declaration at  
23 an earlier date, by notifying the clerk in writing at (insert  
24 address of clerk). When so notified, the Clerk of the Court  
25 will obtain a prompt hearing date from the court and will  
26 provide the necessary forms that must be prepared by the  
27 judgment debtor or the attorney for the judgment debtor and  
28 sent to the judgment creditor and the judgment creditor's  
29 attorney regarding the time and location of the hearing.  
30 This notice may be sent by regular first class mail."

31 (c) When assets or income of the judgment debtor not  
32 exempt from the satisfaction of a judgment, a deduction order  
33 or garnishment are discovered, the court may, by appropriate  
34 order or judgment:

1           (1) Compel the judgment debtor to deliver up, to be  
2 applied in satisfaction of the judgment, in whole or in  
3 part, money, choses in action, property or effects in his  
4 or her possession or control, so discovered, capable of  
5 delivery and to which his or her title or right of  
6 possession is not substantially disputed.

7           (2) Compel the judgment debtor to pay to the  
8 judgment creditor or apply on the judgment, in  
9 installments, a portion of his or her income, however or  
10 whenever earned or acquired, as the court may deem  
11 proper, having due regard for the reasonable requirements  
12 of the judgment debtor and his or her family, if  
13 dependent upon him or her, as well as any payments  
14 required to be made by prior order of court or under wage  
15 assignments outstanding; provided that the judgment  
16 debtor shall not be compelled to pay income which would  
17 be considered exempt as wages under the Wage Deduction  
18 Statute. The court may modify an order for installment  
19 payments, from time to time, upon application of either  
20 party upon notice to the other.

21           (3) Compel any person cited, other than the  
22 judgment debtor, to deliver up any assets so discovered,  
23 to be applied in satisfaction of the judgment, in whole  
24 or in part, when those assets are held under such  
25 circumstances that in an action by the judgment debtor he  
26 or she could recover them in specie or obtain a judgment  
27 for the proceeds or value thereof as for conversion or  
28 embezzlement.

29           (4) Enter any order upon or judgment against the  
30 person cited that could be entered in any garnishment  
31 proceeding.

32           (5) Compel any person cited to execute an  
33 assignment of any chose in action or a conveyance of  
34 title to real or personal property, in the same manner

1 and to the same extent as a court could do in any  
2 proceeding by a judgment creditor to enforce payment of a  
3 judgment or in aid of the enforcement of a judgment.

4 (6) Authorize the judgment creditor to maintain an  
5 action against any person or corporation that, it appears  
6 upon proof satisfactory to the court, is indebted to the  
7 judgment debtor, for the recovery of the debt, forbid the  
8 transfer or other disposition of the debt until an action  
9 can be commenced and prosecuted to judgment, direct that  
10 the papers or proof in the possession or control of the  
11 debtor and necessary in the prosecution of the action be  
12 delivered to the creditor or impounded in court, and  
13 provide for the disposition of any moneys in excess of  
14 the sum required to pay the judgment creditor's judgment  
15 and costs allowed by the court.

16 (d) No order or judgment shall be entered under  
17 subsection (c) in favor of the judgment creditor unless there  
18 appears of record a certification of mailing showing that a  
19 copy of the citation and a copy of the citation notice was  
20 mailed to the judgment debtor as required by subsection (b).

21 (e) All property ordered to be delivered up shall,  
22 except as otherwise provided in this Section, be delivered to  
23 the sheriff to be collected by the sheriff or sold at public  
24 sale and the proceeds thereof applied towards the payment of  
25 costs and the satisfaction of the judgment.

26 (f) (1) The citation may prohibit the party to whom it  
27 is directed from making or allowing any transfer or other  
28 disposition of, or interfering with, any property not  
29 exempt from the enforcement of a judgment therefrom, a  
30 deduction order or garnishment, belonging to the judgment  
31 debtor or to which he or she may be entitled or which may  
32 thereafter be acquired by or become due to him or her,  
33 and from paying over or otherwise disposing of any moneys  
34 not so exempt which are due or to become due to the

1 judgment debtor, until the further order of the court or  
2 the termination of the proceeding, whichever occurs  
3 first. The third party may not be obliged to withhold  
4 the payment of any moneys beyond double the amount of the  
5 balance due sought to be enforced by the judgment  
6 creditor. The court may punish any party who violates  
7 the restraining provision of a citation as and for a  
8 contempt, or if the party is a third party may enter  
9 judgment against him or her in the amount of the unpaid  
10 portion of the judgment and costs allowable under this  
11 Section, or in the amount of the value of the property  
12 transferred, whichever is lesser.

13 (2) The court may enjoin any person, whether or not  
14 a party to the supplementary proceeding, from making or  
15 allowing any transfer or other disposition of, or  
16 interference with, the property of the judgment debtor  
17 not exempt from the enforcement of a judgment, a  
18 deduction order or garnishment, or the property or debt  
19 not so exempt concerning which any person is required to  
20 attend and be examined until further direction in the  
21 premises. The injunction order shall remain in effect  
22 until vacated by the court or until the proceeding is  
23 terminated, whichever first occurs.

24 (g) If it appears that any property, chose in action,  
25 credit or effect discovered, or any interest therein, is  
26 claimed by any person, the court shall, as in garnishment  
27 proceedings, permit or require the claimant to appear and  
28 maintain his or her right. The rights of the person cited  
29 and the rights of any adverse claimant shall be asserted and  
30 determined pursuant to the law relating to garnishment  
31 proceedings.

32 (h) Costs in proceedings authorized by this Section  
33 shall be allowed, assessed and paid in accordance with rules,  
34 provided that if the court determines, in its discretion,

1 that costs incurred by the judgment creditor were improperly  
2 incurred, those costs shall be paid by the judgment creditor.

3 (i) This Section is in addition to and does not affect  
4 enforcement of judgments or proceedings supplementary  
5 thereto, by any other methods now or hereafter provided by  
6 law.

7 (j) This Section does not grant the power to any court  
8 to order installment or other payments from, or compel the  
9 sale, delivery, surrender, assignment or conveyance of any  
10 property exempt by statute from the enforcement of a judgment  
11 thereon, a deduction order, garnishment, attachment,  
12 sequestration, process or other levy or seizure.

13 (k) (Blank).

14 (l) At any citation hearing at which the judgment debtor  
15 appears and seeks a declaration that certain of his or her  
16 income or assets are exempt, the court shall proceed to  
17 determine whether the property which the judgment debtor  
18 declares to be exempt is exempt from judgment. At any time  
19 before the return date specified on the citation, the  
20 judgment debtor may request, in writing, a hearing to declare  
21 exempt certain income and assets by notifying the clerk of  
22 the court before that time, using forms as may be provided by  
23 the clerk of the court. The clerk of the court will obtain a  
24 prompt hearing date from the court and will provide the  
25 necessary forms that must be prepared by the judgment debtor  
26 or the attorney for the judgment debtor and sent to the  
27 judgment creditor, or the judgment creditor's attorney,  
28 regarding the time and location of the hearing. This notice  
29 may be sent by regular first class mail. At the hearing, the  
30 court shall immediately, unless for good cause shown that the  
31 hearing is to be continued, shall proceed to determine  
32 whether the property which the judgment debtor declares to be  
33 exempt is exempt from judgment. The restraining provisions  
34 of subsection (f) shall not apply to any property determined



1 by the court to be exempt.

2 (m) The judgment or balance due on the judgment becomes  
3 a lien when a citation is served in accordance with  
4 subsection (a) of this Section. The lien binds nonexempt  
5 personal property, including money, choses in action, and  
6 effects of the judgment debtor as follows:

7 (1) When the citation is directed against the  
8 judgment debtor, upon all personal property belonging to  
9 the judgment debtor in the possession or control of the  
10 judgment debtor or which may thereafter be acquired or  
11 come due to the judgment debtor to the time of the  
12 disposition of the citation.

13 (2) When the citation is directed against a third  
14 party, upon all personal property belonging to the  
15 judgment debtor in the possession or control of the third  
16 party or which thereafter may be acquired or come due the  
17 judgment debtor and comes into the possession or control  
18 of the third party to the time of the disposition of the  
19 citation.

20 The lien established under this Section does not affect  
21 the rights of citation respondents in property prior to the  
22 service of the citation upon them and does not affect the  
23 rights of bona fide purchasers or lenders without notice of  
24 the citation. The lien is effective for the period specified  
25 by Supreme Court Rule.

26 This subsection (m), as added by Public Act 88-48, is a  
27 declaration of existing law.

28 (n) If any provision of this Act or its application to  
29 any person or circumstance is held invalid, the invalidity of  
30 that provision or application does not affect the provisions  
31 or applications of the Act that can be given effect without  
32 the invalid provision or application.

33 (Source: P.A. 88-48; 88-299; 88-667, eff. 9-16-94; 88-670,  
34 eff. 12-2-94; 89-364, eff. 1-1-96.)

1 (735 ILCS 5/12-901) (from Ch. 110, par. 12-901)

2 Sec. 12-901. Amount. Every individual is entitled to an  
3 estate of homestead to the extent in value of \$30,000 \$7,500  
4 of his or her interest in a farm or lot of land and buildings  
5 thereon, a condominium, or personal property, owned or  
6 rightly possessed by lease or otherwise and occupied by him  
7 or her as a residence, or in a cooperative that owns property  
8 that the individual uses as a residence. That homestead and  
9 all right in and title to that homestead is exempt from  
10 attachment, judgment, levy, or judgment sale for the payment  
11 of his or her debts or other purposes and from the laws of  
12 conveyance, descent, and legacy, except as provided in this  
13 Code or in Section 20-6 of the Probate Act of 1975. This  
14 Section is not applicable between joint tenants or tenants in  
15 common but it is applicable as to any creditors of those  
16 persons.

17 If 2 or more individuals own property that is exempt as a  
18 homestead, the value of the exemption of each individual may  
19 not exceed his or her proportionate share of \$60,000 \$15,000  
20 based upon percentage of ownership.

21 (Source: P.A. 88-672, eff. 12-14-94.)

22 (735 ILCS 5/12-904) (from Ch. 110, par. 12-904)

23 Sec. 12-904. Release, waiver or conveyance. No release,  
24 waiver or conveyance of the estate so exempted shall be  
25 valid, unless the same is in writing, signed by the  
26 individual and his or her spouse, if he or she have one, or  
27 possession is abandoned or given pursuant to the conveyance;  
28 or if the exception is continued to a child or children  
29 without the order of a court directing a release thereof; but  
30 if a conveyance is made by an individual as grantor to his or  
31 her spouse, such conveyance shall be effectual to pass the  
32 title expressed therein to be conveyed thereby, whether or  
33 not the grantor in such conveyance is joined therein by his

1 or her spouse. In any case where such release, waiver or  
2 conveyance is taken by way of mortgage or security, the same  
3 shall only be operative as to such specific release, waiver  
4 or conveyance; and when the same includes different pieces of  
5 land, or the homestead is of greater value than \$30,000  
6 \$7,500, the other lands shall first be sold before resorting  
7 to the homestead, and in case of the sale of such homestead,  
8 if any balance remains after the payment of the debt and  
9 costs, such balance shall, to the extent of \$30,000 \$7,500 be  
10 exempt, and be applied upon such homestead exemption in the  
11 manner provided by law.

12 (Source: P.A. 82-783.)

13 (735 ILCS 5/12-906) (from Ch. 110, par. 12-906)

14 Sec. 12-906. Proceeds of sale. When a homestead is  
15 conveyed by the owner thereof, such conveyance shall not  
16 subject the premises to any lien or incumbrance to which it  
17 would not be subject in the possession of such owner; and the  
18 proceeds thereof, to the extent of the amount of \$30,000  
19 \$7,500, shall be exempt from judgment or other process, for  
20 one year after the receipt thereof, by the person entitled to  
21 the exemption, and if reinvested in a homestead the same  
22 shall be entitled to the same exemption as the original  
23 homestead.

24 (Source: P.A. 82-783.)

25 (735 ILCS 5/12-909) (from Ch. 110, par. 12-909)

26 Sec. 12-909. Bid for less than exempted amount. No sale  
27 shall be made of the premises on such judgment unless a  
28 greater sum than \$30,000 \$7,500 is bid therefor. If a greater  
29 sum is not so bid, the judgment may be set aside or modified,  
30 or the enforcement of the judgment released, as for lack of  
31 property.

32 (Source: P.A. 82-783.)"; and

1 on page 1, lines 12 and 28 and on page 2, line 19 by  
2 changing "\$7,500" each time it appears to "\$30,000 \$7,500";  
3 and

4 on page 2, line 19 by changing "commissioners" to "State  
5 certified general real estate appraiser or State certified  
6 residential real estate appraiser commissioners"; and

7 on page 3, by inserting after line 3 the following:

8 "(735 ILCS 5/12-912) (from Ch. 110, par. 12-912)

9 Sec. 12-912. Sale of premises - Distribution of proceeds.

10 In case of such surplus, or the amount due on the judgment is  
11 not paid within the 60 days, the officer may advertise and  
12 sell the premises, and out of the proceeds of such sale pay  
13 to such judgment debtor the sum of \$30,000 \$7,500, and apply  
14 the balance on the judgment.

15 (Source: P.A. 82-783.)".